

REMARKS

This is being filed in Response to the Office Action dated December 22, 2004.

The Examiner continues to reject claims 1 and 35 under 35 U.S.C. 102(b) as anticipated by U.S. Patent No. 4,278,047 to Luca ("Luca"). The Examiner appears to argue that the term "cross-adapting agent" is being interpreted to mean a compound that may act as a bacteriocidal and a fungicidal agent rather than the express definition given to this term on page 6, lines 17-22. Further the Examiner states that the Office does not "see the specification as necessary to interpret the claim."

Applicants remind the Examiner that consistent with the well-known patent axiom, they may act as their own lexicographer. Applicants further invite the Examiner's attention to the MPEP 2173.05(a) wherein it is stated: "During patent examination, the pending claims must be given the broadest reasonable interpretation consistent *with the specification*. (citations omitted). When the specification states the meaning that a term in the claim is intended to have, *the claim is examined using that meaning*, in order to achieve a complete exploration of the applicant's invention and its relation to the prior art. *In re Zletz*, 893 F.2d 319, 13 USPQ2d 1320 (Fed. Cir. 1989)" (emphasis added). Thus, it is the Applicant that chooses how a claim term is to be defined, not the Examiner. The Examiner is *obligated* to consult the specification to see if the Applicant has defined the claim term. He may not, as was done here, disregard the specification and assign his own interpretation to the claim term.

As stated in the previous action, the Examiner has not offered any reference showing the combination of an odor-reducing agent and a cross-adapting agent. Thus, the rejection under 35 U.S.C. 102(b) over Luca must be withdrawn.

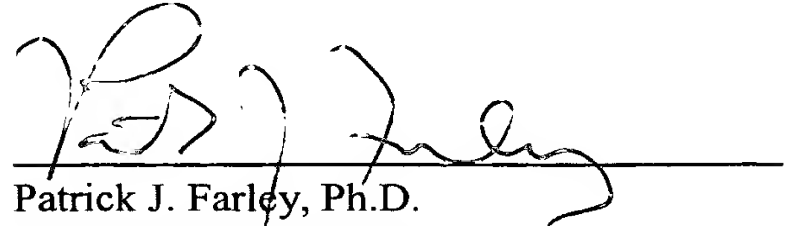
As claims 1 and 35 are allowable in their present form, claims 2-6, 36 and 37 are likewise allowable.

DOCKET NO.: MON-0292
Application No.: 09/887,970
Office Action Dated: December 22, 2004

PATENT
REPLY FILED UNDER EXPEDITED
PROCEDURE PURSUANT TO
37 CFR § 1.116

Applicants earnestly submit that all the claims are in condition for allowance and urge prompt allowance of the claims.

Respectfully submitted,


Patrick J. Farley, Ph.D.
Registration No. 42,524

Date: February 22, 2005

Woodcock Washburn LLP
One Liberty Place - 46th Floor
Philadelphia PA 19103
Telephone: (215) 568-3100
Facsimile: (215) 568-3439